

Serial No. 10/024,386
 Attorney Docket No. 2003536,124US2

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REMARKS

Claims 1-23 are pending in the application. Claims 1, 3, 6, and 12 have been amended. Claims 13-23 are new. Support in the specification for the new claims is indicated in the chart below. No new matter has been added. The right to prosecute any cancelled subject matter in one or more continuation, continuation-in-part, or divisional applications is hereby reserved.

Claim 13	page 4, line 24 – page 5, line 2
Claim 14	page 8, lines 22-27
Claim 15	page 8, line 27 – page 9, line 5
Claim 16	page 8, line 27 – page 9, line 12
Claim 17	page 9, lines 9-12
Claim 18	page 13, lines 2-13
Claim 19	page 15, lines 9-11
Claim 20	page 8, line 27 – page 9 line 26
Claim 21	page 8, line 22 – page 13, line 1
Claim 22	page 2, lines 1-6
Claim 23	page 2, lines 1-6

Rejections under 35 U.S.C. § 112

Claims 6 and 12 have been rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite. Claims 6 and 12 have been amended to remove the objected term "and/or". Support for the amendments is found, for example, in the paragraph beginning at page 10, line 5 of the specification. Accordingly, it is believed that this objection has been overcome.

Rejections under 35 U.S.C. § 103

Claims 1-12 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious in view of the article titled "AIG Tackles Claims Management," *National Underwriter* Vol. 103, No. 15, page 32 (April 12, 1999) ("AIG") in combination with Larkin *et al.*, U.S. Patent Publication 2002/0069089 (June 6, 2002) ("Larkin"). Applicants respectfully traverse these rejections.

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Neither AIG nor Larkin disclose a method for providing medical assignments to medical insurance claims as disclosed by the Applicants, nor do AIG and Larkin together suggest such a method. AIG describes an "Integrated Disability Management" claims management program, which is "designed to help reduce costs by applying workers' comp claims management strategies to non-occupational claims" (AIG, paragraph 3; emphasis added)². AIG does not, as the Examiner alleges, disclose a method for "*automatically performing assignment logic* on the reported claim and the collected data to determine whether the assignment is warranted" (Office action, paragraph 7; italics added). Rather, AIG describes a method for "a telephonic case management system that profiles incoming claims and enables case managers to identify those most in need of case management" (AIG, paragraph 4). In summary, AIG describes a program that features "telephonic and face-to-face case management" (AIG, paragraph 8) and is silent as to any assignment logic, whereas the Applicants describe a method for **automated medical assignment logic**.

Larkin describes a case management system comprising "determining an injury diagnosis and a treatment plan" (Larkin, paragraph 0043). Larkin does not, as the Examiner alleges, disclose a "case management method for workplace injuries in which *medical assignment* is performed on a reported claim *to determine what type of medical assignment is warranted* (see paragraphs 0044-0046, 0048, and 0052)" (Office action, paragraph 8; italics and boldface added). Larkin does not describe a method for medical assignment at all, but rather for "injury diagnosis" (Larkin, paragraph 0043). The "injury is usually diagnosed prior to other useful case management operations" (Larkin, paragraph 0043) and may use information provided by one of "two paths" (Larkin, paragraph 0044): (i) a "questionnaire" (Larkin, paragraph 0045) compared with a "diagnosis database" (Larkin, paragraph 0046), wherein the database "typically contain[s] information developed by medical research teams" (Larkin, paragraph 0038); or (ii) a "medical professional" (Larkin, paragraph 0047). Thereafter, (a) "an injury classification code corresponding to the diagnosis" can be extracted from an "injury classification database" (Larkin, paragraph 0048), which "contains standard ICD-9 [International Classification of Diseases, 9th] codes" (Larkin, paragraph 0038), and (b) the method "automates scheduling of assessment testing" (Larkin, paragraph 0052). In summary, Larkin describes a method for

² Paragraphs numbered according to printed article; copy enclosed.

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calculating an ICD-9 injury classification code and using it to schedule diagnostics, not a method for determining if **medical assignment is warranted**, as described by the Applicants, and is silent as to any use of that code other than for calculating or determining a treatment plan.

The telephonic case management system as described in AIG is not at all relevant to the presently claimed method for **automated medical assignment logic**, as described by the Applicants. Consideration of an input ICD-9 code is but one factor in the medical assignment logic described by the Applicants. Significantly, that logic is **automated**, whereas the system disclosed by AIG, cited by the Examiner, uses human logic in a telephonic interaction. A method and system of automated medical assignment logic, as described by the Applicants, would not be obvious to one having ordinary skill in the art in view of AIG and Larkin.

Claim 1 has been amended to eliminate reference to claim handling in a claim service office for clarity and focus on the invention. Support for this amendment is found, for example, at page 9, lines 9–10 of the specification. Claim 1 has been further amended to indicate that the automated medical assignment logic involves a plurality of data elements. Support for this amendment is found, for example, in the analysis factors listed in the specification starting at page 9, line 1 to page 12, line 18, and appendices and tables referenced therein. Automated medical assignment logic involving a plurality of data elements is not obvious in view of AIG and Larkin, thus it is respectfully believed that the Examiner's objection has been overcome.

As amended claim 1 is not taught by AIG and Larkin, it is believed that the Examiner's rejection of claims 2–12 is rendered moot. The Examiner's specific concerns regarding Larkin are addressed below.

Larkin does not disclose "analyzing previous claims that are similar to the reported claim and their medical assignments" as recited in claims 3 and 4. In paragraph 0046, Larkin describes providing a set of possible diagnoses in response to knowledge about a work environment. Such a set of diagnoses might result in a more precise ICD-9 code. However, in combination with AIG, no positive contribution to medical assignment, human or automated, is disclosed or suggested. Furthermore, Applicants take the position that use of knowledge about a work environment is not related to use of knowledge about previous similar claims and their medical assignments. Claim 3 is amended for clarity.

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Regarding claim 5, Larkin does not refer to selecting a "sub-list" of nature of injury (NOI) and associated part of body (POB) combinations "that desire medical assignment" (claim 5). In paragraph 0042, Larkin describes a user entering information on a single claim. In paragraph 0046, Larkin describes comparing questionnaire responses to a "diagnosis database". The diagnosis database is described in paragraph 0038 as, similar to a "treatment database", containing "information developed by medical research teams, e.g. in the form of summaries or distillations of actual medical case studies". Such a treatment/diagnosis databases are not related to lists of NOI and POB, and certainly not to sub-lists of NOI and POB associated with medical assignment. Moreover, Larkin describes a "treatment plan" (Larkin, paragraph 0049), including "scheduling of assessment testing", and "pre-certification" of scheduled tests" (Larkin, paragraph 0052). Scheduling and pre-certifying diagnostic tests as a part of a treatment plan, as described by Larkin, are not part of "automatically performing medical assignment logic", as described and claimed by the Applicants.

Regarding claim 6, in paragraph 0048, Larkin describes selecting a treatment pathway from one of the following: "non-invasive", "removal", or "repair". No mention is made in Larkin of the relation of these pathways to surgery, or of using any of these selections in automated medical assignment logic, as indicators of whether or not medical assignment is warranted, as described by the Applicants.

Regarding claim 7, Larkin paragraph 007 describes a "first report of injury", not a new date of disability, as described by the Applicants.

Regarding claim 8, Applicants describe a sum of monetary values incurred by temporary total (TT) disability, temporary partial (TP) disability, and medical. Larkin describes a "degree of disability management (DDoDM) code...identified based on the injury classification code and the associated job code" (Larkin, paragraph 007). The DDoDM metric, is described in Larkin as a "tool to measure MCO [managed care organization] effectiveness in managing treatment and returning workers to employment" (Larkin, paragraph 0005); it is not a decisioning point in automated medical assignment logic, as described by the Applicants. It is further not a decisioning point based on monetary value, as acknowledged by the Examiner.

Regarding claims 9 and 10, Larkin does not describe a "preparing a list of ICD-9 codes *for which medical assignment is warranted*", as described by the Applicants (claim 9; italics)

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added). Larkin describes assignment of ICD-9 codes based on assessment of symptoms (Larkin, paragraphs 0007, 0008, 0019). Larkin does not, however, describe identifying a list of ICD-9 codes for which medical assignment is warranted.

Regarding claim 11, Larkin describes calculating an "estimated return-to-work date" (Larkin, paragraph 0018). Larkin does not describe "assessing the reported claim and the collected data to determine whether the injured individual has not returned to work for more than a predetermined period of time after the injury" and using that assessment as part of an automated medical assignment logic to determine if medical assignment is warranted, as described by the Applicants (claim 11).

For at least the reasons given above in connection with claims 6-9, it is believed that claim 12 is distinguished over the prior art.

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CONCLUSION

Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, Applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicants have emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicants do not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicants are providing examples of why the claims described above are distinguishable over the cited prior art.

Applicants wish to clarify for the record, if necessary, that the claims have been amended to expedite prosecution and/or to explicitly recite that which is already present within the claims. Moreover, Applicants reserve the right to pursue the original and/or complimentary subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely as Applicants' best attempt at providing one or more definitions of what the Applicants believe to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicants are seeking for this application. Therefore, no estoppel should be presumed, and Applicants' claims are intended to include a scope of protection under the Doctrine of Equivalents and/or statutory equivalents, i.e., all equivalents that are substantially the same as the presently claimed invention.

Further, Applicants hereby retract any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintain the arguments that persuaded the Examiner with respect

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to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicants specifically retract statements that one of ordinary skill would recognize from reading the file history were not necessary, not used, and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, Applicants respectfully submit that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicants respectfully submit that the Application is in condition for allowance, and that such action is earnestly solicited.

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AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees that may be required for this Amendment, or credit any overpayment, to Deposit Account No. 08-0219.

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,
WILMER CUTLER PICKERING HALE AND DORR LLP

Date

6/12/07


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AIG Tackles Claims Management

PRODUCT NEWS

American International Group has announced that its American Interna-

tional Companies is offering "Integrated Disability Management," a claims management program for insureds with workers' compensation

and group disability policies underwritten by AIG member companies.

"Employers are faced with significant challenges in managing their dis-

ability programs as these costs continue to account for an increasing portion of their payroll," said Anthony Gaboto, president, claims services, for New York-based AIG. "The Integrated Disability Management program gives employers the tools they need to manage these programs and help reduce loss costs."

The IDM program is designed to help reduce costs by applying workers' comp claims management strategies to non-occupational claims. Specifically, IDM manages workers' comp, long-term disability and short-term disability claims using a uniform system regardless of whether they are occupational or non-occupational.

IDM uses a telephonic case management system that profiles incoming claims and enables case managers to identify those most in need of case management. This helps reduce lost days and achieves optimum medical outcomes, AIG said.

IDM also uses "IntelliRisk," AIG's specialized, online, Windows-based software system that provides real-time claims information.

IDM employs a variety of claims management strategies, including:

- Early intervention to capture notification of injury or illness.
- Telephonic and face-to-face case management to monitor the quality and cost of medical care, as well as to help ensure that injured employees receive cost-effective and quality treatment.

- Early return-to-work programs that focus on returning disabled employees to work as soon as possible.

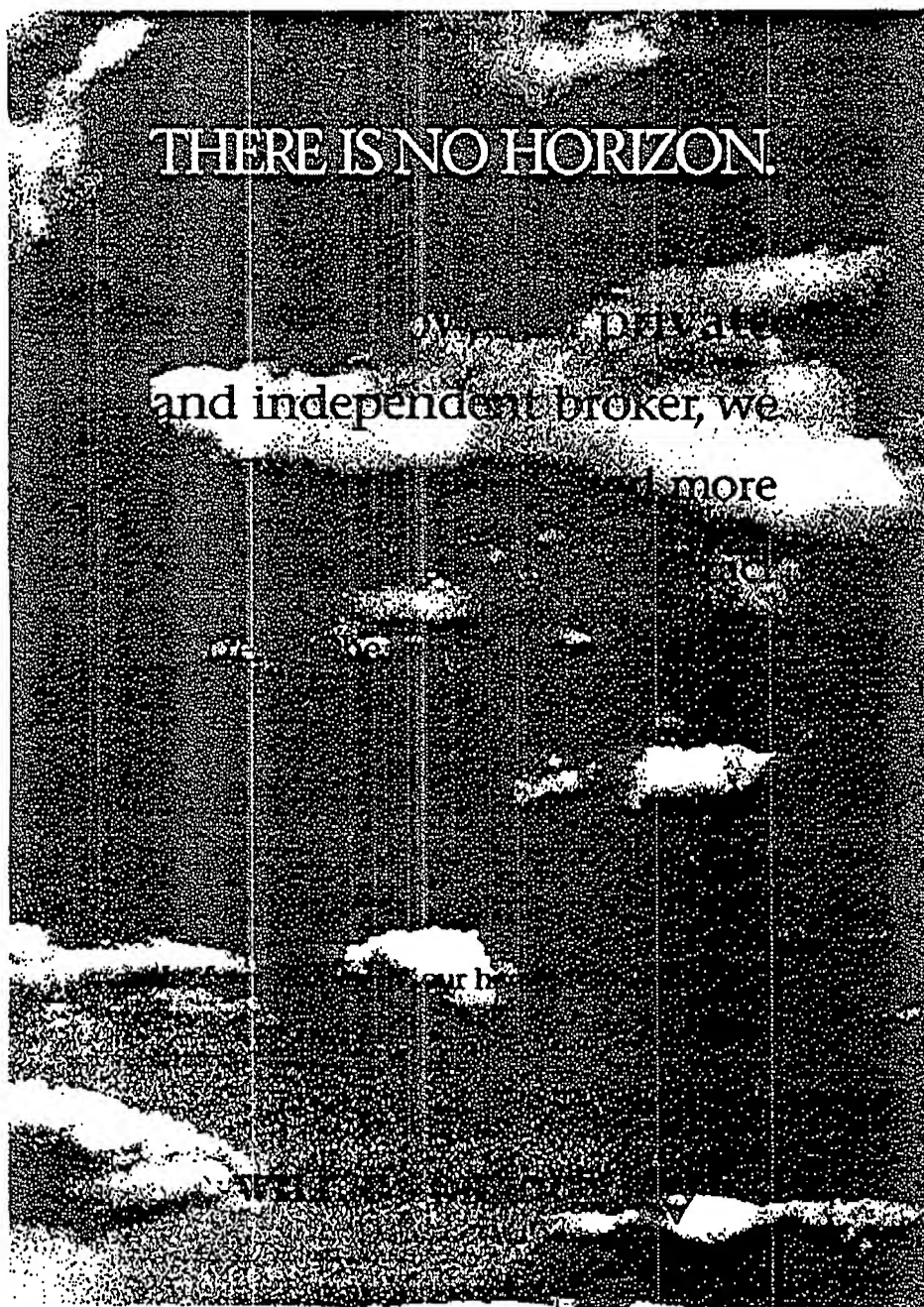
To provide consistency at all levels of the claims management process, the IDM program uses a single source 800 number to report claims, a single customer service and medical management team, single dispute resolution, and cross- and duplicate-claims monitoring.

SAFECO Announces Rural Agent Initiative

SAFECO has announced a new rural marketing initiative designed to grow the company's presence in smaller communities across the country.

About one-third of SAFECO's 8,000 independent agents are in communities with fewer than 50,000 people, and a significant number of these agents are based in towns with populations of 5,000 or less, the Seattle-based company said. SAFECO's rural agents account for more than \$650 million in premium each year through all lines of business.

For more information on the program, visit www.safeco.com.



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